



Canyon Fuel
Company, LLC.
Skyline Mine

A Subsidiary of Arch Western Bituminous Group, LLC.

Gregg Galecki, Environmental Eng.
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October 30, 2007

Ms. Pamela Grubaugh-Littig
Utah Coal Program
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84144-5801

Gregg Galecki
10/30/2007

RE: Incidental Boundary Change (IBC) to include S1/4 Section 36, T 12 South, Range 6 East, and the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M

Dear Pam:

Please note, this correspondence is a follow up to a similar letter sent June 15, 2007. The legal description on the June 15, 2007 correspondence incorrectly identified the W1/2SW1/4 of Section 1, and did not include the entire increase in the permit area – only the area where mining is planned. The area is correctly identified as the W1/2SE1/4 of Section 1, Township 13 South, Range 6 East, and the entire proposed permit boundary addition is described.

Canyon Fuel Company, LLC (CFC), Skyline Mine intends to mine portions of the S1/4 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M in coal that the company has leased from Carbon County and C&B Energy. The current surface land owners are the Allred Family Trust administered by Phil Allred, and Koula Marakis Trust administered by George E. and Helen Liidakis and Liidakis Ranch, LLC. CFC has notified the two trust administrators this area of their property will be undermined as main entries and room-and-pillar areas are developed from the existing Skyline Mine works toward areas north of Winter Quarters Canyon. In good-faith, Skyline Mine has confidential agreements in place with both of these family trusts that addresses undermining their property. CFC Skyline Mine will first-mine only in the portions of the Carbon County and C&B Energy leases described and no subsidence will occur as a result of the mining.

Utah Administrative Code **R645-301-114.200** relating to the general contents of a coal permit application provides that where the private mineral estate to be mined has been severed from the private surface estate, an applicant will submit one of the following: 1) a copy of the written consent of the surface owner, or 2) a copy of the conveyance that expressly grants or reserves the right to extract coal by certain coal mining and reclamation operations, or 3) documentation that the applicant has the legal authority under Utah law to extract the coal by the proposed operations. CFC Skyline Mine submits that it meets the requirements set forth under **114.210, 114.220, and 114.230**.

CFC Skyline Mine has been granted valid coal leases from Carbon County and C&B Energy, the owners of the coal estate, to conduct underground mining of coal in the S1/4 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M, respectively. See, Amended Section 5 of *Consent, Ratification, and Amendment of Lease and Agreement*. Utah law recognizes the general rule that the rights of the owner (or rights of a lessee) of mineral rights in land are dominant over the rights of the owner of the fee to the extent reasonably necessary to extract the minerals from the affected lands. *Flying Diamond vs. Rust*, 551 P.2d 509 (Utah 1976) (copy attached to 8/8/02 letter to

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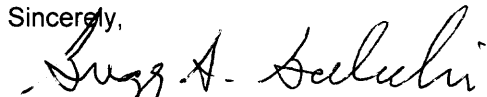
DIV. OF OIL, GAS & MINING

DOGM, Appendix 118A of currently approved M&RP). The Utah Supreme Court has clearly adopted the principle that wherever there exists separate ownerships of interest in the same land, "each (party) should have the right to the use and enjoyment of his interest in the property to the highest degree possible not inconsistent with the rights of the other." *Flying Diamond* at 511. The dominant right of the mineral estate is qualified: the mineral owner or lessee must exercise his or her rights only as "reasonably necessary" and consistent with allowing the fee owner "the greatest possible use of his property." *Smith vs. Linmar Energy Corp.*, 790 P. 2d 1222, 1224 (Utah App. 1990) (copy attached to 8/8/02 letter to DOGM, Appendix 118A of currently approved M&RP).

Under the current permit application, CFC Skyline Mine proposes to conduct underground mining below the fee surface without material damage to the surface resulting from either direct surface access or subsidence. Consequently, CFC Skyline is exercising its rights to mine the Carbon County and C&B Energy leases with respect to the fee surface consistent with Utah law in a "reasonably necessary" manner while allowing the fee surface owner "the greatest possible use of his property".

If you have any questions regarding this matter, please call me at (435) 448-2636

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg A. Galecki". The signature is fluid and cursive, with the first name "Gregg" being more prominent.

Gregg A. Galecki
Environmental Engineer, Skyline Mine
Canyon Fuel Company, LLC